

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

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|--------------------------------------|---|---------------------------------------|
| LORENZA D. JONES |) | |
| Petitioner, |) | Civil Action No. 7:11-cv-00400 |
| |) | |
| v. |) | <u>MEMORANDUM OPINION</u> |
| |) | |
| WESTERN DISTRICT COURT OF VA, |) | By: Norman K. Moon |
| Respondent. |) | United States District Judge |

Petitioner Lorenza D. Jones, a Virginia inmate proceeding pro se, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his convictions in the Danville Circuit Court. The court finds that Jones has failed to exhaust his state court remedies before filing this federal habeas petition and, therefore, dismisses his petition without prejudice.

I.

On November 13, 2008, the Danville Circuit Court convicted Jones of first degree murder and grand larceny. Jones concedes that the instant petition is his first “appeal.” State court online records confirm that Jones did not file a direct appeal or a state habeas petition in any state court.

II.

A federal court cannot grant a habeas petition unless the petitioner has exhausted the remedies available in the courts of the state in which he was convicted. Preiser v. Rodriguez, 411 U.S. 475 (1973). If the petitioner has failed to exhaust state court remedies, the federal court must dismiss the petition. Slayton v. Smith, 404 U.S. 53 (1971). In Virginia, a non-death row felon ultimately must present his claims to the Supreme Court of Virginia and receive a ruling from that court, before a federal district court may consider his claims. See Va. Code § 8.01-

654. In this case, it is clear that Jones has yet to pursue his claims in the Supreme Court of Virginia. Accordingly, the court finds that Jones' petition is unexhausted.

III.

Based on the foregoing, the court dismisses Jones' instant habeas petition, without prejudice, as unexhausted.¹

The Clerk is directed to send a certified copy of this Memorandum Opinion and accompanying Order to the petitioner.

ENTER: This 29th day of August, 2011.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE

¹ Moreover, it appears Jones' petition is untimely filed.